

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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STATE OF IOWA ex rel.	)	
THOMAS J. MILLER, 99AG25112	)	
ATTORNEY GENERAL OF IOWA	)	
	)	EQUITY NO. CE 000 51749
Plaintiff,	)	
	)	
v.	)	
	)	JUDGMENT ON DEFAULT ON
ROGER T. CARLSON and	)	DEFENDANTS ROGER T. CARLSON
CARLSON TECHNOLOGIES, INC.	)	AND CARLSON TECHNOLOGIES, INC.
d/b/a/ TRI-STAR DISTRIBUTING,	)	
	)	
Defendants.	)	

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This matter comes before this Court on State's Application For Judgment on Default on Defendants. The Court has reviewed the court file, the State's Application and attached exhibits. Being fully advised in the premises and there being no reason for delay, THE COURT FINDS AS FOLLOWS:

1. The Court has jurisdiction of the parties and subject matter.
2. Venue is proper in Polk County.
3. Plaintiff is the State of Iowa, ex rel. Attorney General Thomas J. Miller, the duly elected Attorney General of Iowa. The Attorney General of Iowa is expressly authorized pursuant to Iowa Code §§ 714.16(7), 555A.6(2) and 714B.7 to file a civil action against any person who has engaged in a practice declared to be unlawful under Iowa Code § 714.16, Iowa Code chapter 555A and/or Iowa Code chapter 714B.
4. Defendant Roger T. Carlson owns, operates and manages a door-to-door sales business which was incorporated under the name Carlson Technologies, Inc. His business address is 2190 N.W.82nd Street, #1, Clive, Iowa. Defendant Roger T. Carlson is named in his individual capacity as well as his past or present corporate capacities.

5. Defendant Roger T. Carlson formulated, controlled, was a primary participant in, and had, or should have had, knowledge of the acts and practices of Carlson Technologies, Inc. constituting the violations of Iowa law as alleged herein and, at all times relevant hereto, was an officer, director, owner, and agent of Carlson Technologies, Inc.

6. Defendant Carlson Technologies, Inc. was a Colorado corporation doing business under the trade name of Tri-Star Technologies from July 28, 1997, until the Colorado Secretary of State administratively dissolved the corporation on May 1, 2002. Carlson Technologies was granted a certificate of authority to transact business in Iowa by the Iowa Secretary of State in September of 1997, but said certificate was revoked on August 3, 1998. Carlson Technologies, Inc. presently sells and services home care products, including vacuum cleaners and air purifiers, and is located at 2190 N.W. 82nd Street, #1, Clive, Iowa.

7. On August 30, 2005, the State filed a Petition against Defendants Roger T. Carlson and Carlson Technologies, Inc. alleging violations of the Iowa Consumer Fraud Act (Iowa Code § 714.15), the Iowa Door to Door Sales Act (Iowa Code chapter 555A), the Iowa Prize Promotions Act (Iowa Code chapter 714B) and an Assurance of Voluntary Compliance (AVC) entered into by the parties on March 18, 2004. The State's allegations are included in paragraphs 1, 14, 20 - 22, 25 - 29, 33, 35, 37 and 39 - 42 of the petition.

8. On August 30, 2005, Defendants Roger T. Carlson and Carlson Technologies, Inc. were personally served the Original Notice and Petition.

9. Defendants failed to file a motion or answer within twenty (20) days after service of the Original Notice and Application, as required pursuant to Iowa R. Civ. P. 1.303.

10. The State has fully complied with the procedural requirements for entry of a judgment upon the default of Defendants, as required pursuant to Iowa R. Civ. P. 1.972.

11. The Court is satisfied that neither Defendant is subject to a legal disability, or is imprisoned, or is in the military, or is otherwise subject to any legal defenses or exemptions that would prevent entry of this Judgment.

12. Defendants Roger T. Carlson and Carlson Technologies, Inc. are in default pursuant to Iowa R. Civ. P. 1.971(1), and the State is entitled to judgment pursuant to Iowa R. Civ. P. 1.973(2).

13. The Court finds that Defendants Roger T. Carlson and Carlson Technologies, Inc. violated the Iowa Door-to-Door Sales Act (Iowa Code chapter 555A) in the manner alleged in Count I of the State's petition.

14. The Court finds that Defendants Roger T. Carlson and Carlson Technologies, Inc. violated the Assurance of Voluntary Compliance in the manner alleged in Count II of the State's petition.

15. The Court finds that Defendants Roger T. Carlson and Carlson Technologies, Inc. violated the Iowa Prize Promotions Act (Iowa Code chapter 714B) in the manner alleged in Count III of the State's petition.

16. The Court finds that Defendants Roger T. Carlson and Carlson Technologies, Inc. violated the Iowa Consumer Fraud Act (Iowa Code § 714.16) in the manner alleged in Count IV of the State's petition.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code § 714.16(7), Defendants Roger T. Carlson and Carlson Technologies, Inc., and their employees, agents, successors, assigns and all other persons acting in concert with or participating with Defendants, who have actual or constructive notice of this order are hereby permanently RESTRAINED and ENJOINED from:

- A. selling consumer goods or services "door-to-door" within the meaning of the Iowa Door-To-Door Sales Act, unless Defendants comply in all respects with the requirements of Iowa Code chapter 555A, and as that act subsequently amended;
- B. representing to consumers that they have been, or will be, awarded a "prize," as defined in Iowa Code § 714B.1(4), unless Defendants comply in all respects with the requirements of Iowa Code chapter 714B, and as that act is subsequently amended;
- C. committing any business practices employing the act, use or employment of deception, fraud, false pretense, false promise, misrepresentation; or the concealment, suppression or omission of a material fact with the intent that a consumer rely on that concealment, suppression or omission;
- D. upon each contact with a consumer, failing to promptly disclose the real purpose of the contact using clear, conspicuous and unambiguous language<sup>1</sup>;
- E. before requesting or otherwise seeking consumers' consent to the presence of Defendants at the consumers' residence, failing to inform consumers of the real purpose for the Defendants' presence at consumers' residences using clear, conspicuous and unambiguous language;<sup>2</sup>
- F. disposing of any property or goods that consumers traded in for merchandise until the expiration of the three-day cancellation right provided by Iowa Code chapter 555A;
- G. failing to fully comply with the federal Telemarketing Consumer Fraud and Abuse Prevention Act, including, but not limited to, failing to fully comply with the "do-not-call" provisions of the Federal Trade Commission rules arising from that Act. (15 U.S.C. §§ 6101 - 6108; 16 C.F.R. part 310, and as subsequently amended);
- H. failing to immediately honor all requests from consumers that they not be contacted by Defendants;

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<sup>1</sup> This injunctive provision includes, but is not limited to, a requirement that an initial contact, whether by telephone, mail or other means, must disclose the fact that the Defendants are contacting consumers to set an appointment for a sales presentation, and shall not represent that the purpose of the contact is to announce that the consumer has won a prize, award, gift or other item of value that is free to the consumer, unless the sole purpose of the contact is to deliver a "prize" as defined in Iowa Code § 714B1(4).

<sup>2</sup> This injunctive provision includes, but is not limited to, a requirement that Defendants must disclose the fact that the Defendants are setting an appointment for a sales presentation, and shall not claim that the purpose of the appointment is to deliver a prize, award, gift or other item of value that is free to the consumer, unless the sole purpose of the appointment is to deliver a "prize" as defined in Iowa Code § 714B1(4).

I. failing to immediately honor all requests from consumers that Defendants leave the consumers' residences;

J. if a prize, gift or other free merchandise is promised to a consumer who agrees to an in-residence presentation; failing to give such prize, gift or other free merchandise to the consumer at the beginning of the in-residence visit;

K. if a prize, gift or other free merchandise is promised to a consumer in exchange for the performance of any act by the consumer other than attendance at an in-residence presentation; failing to give such prize, gift or other free merchandise to consumer immediately upon performance by consumer;

L. failing to timely respond to consumer complaints received from consumers, or from the Attorney General, within ten (10) business days from receipt of the complaints;

M. failing to timely honor all warranties;<sup>3</sup> and

N. engaging in abusive sales practices, including but not limited to high pressure sales tactics, when attempting to sell merchandise.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code §§ 555A.5, 555A.6(2), 714B.7 and 714.16(7), any contract, note, instrument or other evidence of indebtedness executed or entered into in connection with the sale, or attempted sale, is declared void for the following consumers:

a. Diana and Paul Wheeland; and

b. Shaaron Garrison.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code §§ 555A.6(2), 714B.7 and 714.16(7), judgment is entered against Defendants Roger T. Carlson and Carlson Technologies, Inc., with joint and several liability and interest accruing from the date of commencement of this action, for reimbursement to the following consumers in the following amounts:

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<sup>3</sup> For purposes of this paragraph M, failure to satisfy or correct a warranty requirement within ten (10) business days from the date on which the Defendants were notified of said requirement shall raise the presumption that Defendants are in violation of this Judgement.

- |                            |               |
|----------------------------|---------------|
| a. Dave Engels             | \$1,272.00;   |
| b. Diana and Paul Wheeland | \$639.80; and |
| c. Teresa Jones            | \$100.00.     |

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code § 714.16(7) Defendants Roger T. Carlson and Carlson Technologies, Inc. are ordered to immediately and affirmatively take all steps reasonably necessary to eliminate any negative impact on consumers' credit which arose from the consumers' transactions with the Defendants, including, but not limited to, contacting the major credit reporting bureaus to have such negative credit history removed from the consumers' credit reports.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code §§ 555A.6(2), 714B.7 and 714.16(7), judgment is entered against Defendants Roger T. Carlson and Carlson Technologies, Inc. in the sum of \$15,000.00, with joint and several liability and interest accruing from the date of this Judgment, to be used for public education relating to consumer fraud and for enforcement of section 714.16, as set forth in House File 811, Section One, Subsection "3," 2005 Iowa General Assembly.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code § 714.16(11), Defendants Roger T. Carlson and Carlson Technologies, Inc., with joint and several liability, shall pay any and all the State's court costs.

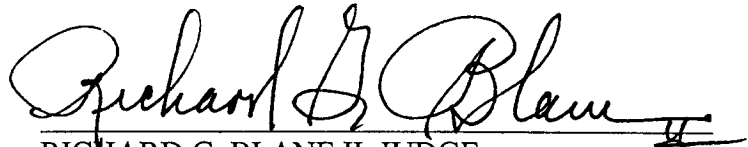
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code § 714.16(7) (2005), the Court may impose a civil penalty of not more than \$5,000.00 on Defendants, either individually or jointly, for each day of intentional violation of this Judgment in addition to any other remedy allowed by law including, but not limited to, a finding that either Defendant is in contempt of this Court pursuant to Iowa Code chapter 665 (2005).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court retains jurisdiction over the Defendants to enforce this Judgment, including but not limited to, an award to the State of Iowa of a judgment for any costs it incurs including, but not limited to, attorney fees in the event of noncompliance by the Defendants.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that nothing contained in this Judgment shall be construed to deprive any consumer or other person or entity of any private right of action under any law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that nothing contained in this Judgment shall be construed to limit the authority of the State to enforce prospectively laws, regulations or rules against the Defendants; or to enforce any laws or rules other than those referenced herein for any acts or omissions of Defendants prior or subsequent to, and including, the date of this Judgment.

IT IS SO ORDERED this 9<sup>th</sup> day of December, 2005.

  
RICHARD G. BLANE II, JUDGE  
FIFTH JUDICIAL DISTRICT OF IOWA

(u)

12/9/05

Copies to:

- ✓ Roger T. Carlson  
14307 Brookshire Drive  
Urbandale, IA 50323-2044
- ✓ Carlson Technologies, Inc.  
2190 N.W.82nd Street  
Suite #1  
Clive, IA 50325
- ✓ Benjamin E. Bellus  
Consumer Protection Division  
1305 East Walnut Street  
Des Moines, IA 50319